

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Kenji KADOYA et al.

Group Art Unit: 2817

Appln No. : 09/926,825
(National Phase of PCT/JP01/03671)

Examiner: Patricia Nguyen

Filed : April 3, 2002 (35 U.S.C. § 371 date)
(International Filing Date April 27, 2001)

Confirmation No.: 8021

For : HIGH FREQUENCY RELAY

RESPONSE TO RESTRICTION REQUIREMENT, WITH TRAVERSE

Commissioner for Patents
Alexandria, VA 22313

Sir:

ELECTION

In response to the Examiner's restriction requirement of October 7, 2003, setting forth a one (1) month shortened statutory period for responding thereto, Applicants elect, with traverse, Species II, identified by the Examiner as that shown in Figs. 11-14. Claims 1-3 and 5-15 are considered to be "readable" on the elected invention. Claim 1 is considered to be generic.

TRAVERSE

Applicants respectfully traverse the Examiner's restriction requirement.

Initially, Applicants note that the present application contains Figs. 1-17, and that the Examiner asserts that Figs. 1-10 are directed to a first species, and Figs. 11-14 are directed

to a second species. Applicants submit that based upon a review of the application, Species II is actually shown in Figs. 11-15. Applicants believe that a typographic error exists in the species notation in the restriction requirement. Accordingly, the Examiner is respectfully requested to confirm, in the next official communication, that the invention of Species II is shown in Figs. 11-15.

Regarding the substance of the restriction requirement, the standard by which the Office guides Examiners in requiring restriction under 35 U.S.C. §121 is set forth in M.P.E.P. Chapter 800. Section 803 states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

Applicants respectfully submit that there are at least two factors which individually and collectively support Applicants' position that there would not appear to be a "serious burden" in examining claims directed to each of the inventions identified by the Examiner.

Firstly, as indicated above, of the fifteen (15) pending claims, fourteen (14) read on the elected invention. That is, after restriction, only one (1) of the original claims would be withdrawn from consideration on the merits of Applicants' invention, and said claim would be a dependent claim.

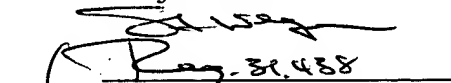
Secondly, it would appear that the search for the inventions identified by the Examiner would be coextensive. Therefore, if the Examiner were to perform a search for the species of Figs. 11-14 (sic) (e.g., Species II), it would not appear to be a serious burden to continue

the examination of the remaining species (e.g., Species I; dependent claim 4) in this application. For example, Species II (e.g., Figs. 11-14 (sic)) differs from Species I (e.g., Figs. 1-10) in the omission of transit member 8 with hinge pin 9 that forms hinged plate block 50. It would not appear to be a serious burden, when searching for the species of Figs. 11-14 (sic), to also search for the hinged plate block of Species I.

Therefore, due to an apparent lack of a serious burden, as recognized in M.P.E.P. §803 as being a prerequisite to a proper restriction requirement, and due to the fact that the Office Action fails to even address the issue of a serious burden, Applicants respectfully request that the restriction requirement be withdrawn.

For the foregoing reasons, Applicants respectfully request the restriction requirement be reconsidered and withdrawn. Any comments or questions concerning this application can be directed to the undersigned at the telephone number given below.

Respectfully submitted,
Kenji KADOYA et al.


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November 6, 2003
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